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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,687	08/25/2003	Ajay Joseph	IB-0010P1	9968
34610 7590 03/18/2008 KED & ASSOCIATES, LLP P.O. Box 221200 Chantilly, VA 20153-1200				
EXAMINER				
PHAN, MAN U				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/646,687

**Applicant(s)**

JOSEPH ET AL.

**Examiner**

Man Phan

**Art Unit**

2619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 19-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-18 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Response to Amendment and Argument***

I. This communication is in response to applicant's 11/29/2007 Amendment in the application of Joseph et al. for a "System and method for VoIP and facsimile over IP (FoIP) calling over the Internet" filed 08/25/2003. This application is a CIP of 10/298,208 filed 11/18/2002, which claims priority from provisional application 60/331,479 filed 11/16/2003, and is a CIP of 10/094671 filed 03/07/2002. The amendment and response has been entered and made of record. Claims 1, 3, 5 have been amended, and new claims 19-26 have been added. Claim 1-26 are pending in the application.

***Election by Original Presentation***

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
- I. Claims 1-18 drawn to the pathfinding or routing. Subject matter including an apparatus or a technique for locating a path through a switching network from a source to a destination. Note. This subclass includes techniques for reorganizing existing connections to make room for new connections. Classified in **class 370, subclass 351**.
  - II. Claims 19-26 drawn to the least cost or minimum delay routing. This subclass is indented under flow control of data transmission through a network. Subject matter having means to regulate the amount of information transmitted through the network once the data is in the network. Subject matter wherein data is communicated on a

channel or channels based upon the determination that the selected channel or channels will have the lowest (a) toll, expense, or (b) delay. Classified in **class 370, subclass 238**.

3. Newly submitted claims 19-26 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I which has separate utility such as inserting header data into digital data packets containing a call setup request, which does not include the particular listed of the invention II, such as forwarding the data packets bearing the call setup request with the addressing data from the source gateway to the second originating gateway. See MPEP ' 806.05(d).

Since applicant has received an office action on the merits for the originally presented invention (Claims 1-18 originally), this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 19-26 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

4. Applicant's remarks and argument to the rejected claims are insufficient to distinguish the claimed invention from the cited prior arts or overcome the rejection of said claims under 35 U.S.C. 103 as discussed below. Applicant's argument with respect to the pending claims have been fully considered, but they are not persuasive for at least the following reasons.

5. In response to Applicant's argument that the reference does not teach or reasonably suggest the functionality upon which the Examiner relies for the rejection. The Examiner first emphasizes for the record that the claims employ a broader in scope than the Applicant's disclosure in all aspects. In addition, the Applicant has not argued any narrower interpretation of the claim limitations, nor amended the claims significantly enough to construe a narrower meaning to the limitations. Since the claims breadth allows multiple interpretations and meanings, which are broader than Applicant's disclosure, the Examiner is required to interpret the claim limitations in terms of their broadest reasonable interpretations while determining patentability of the disclosed invention. See MPEP 2111. In other words, the claims must be given their broadest reasonable interpretation consistent with the specification and the interpretation that those skilled in the art would reach. See *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000), *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999), and *In re American Academy of Science Tech Center*, 2004 WL 1067528 (Fed. Cir. May 13, 2004). Any term that is not clearly defined in the specification must be given its plain meaning as understood by one of ordinary skill in the art. See MPEP 2111.01. See also *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989), *Sunrace Roots Enter. Co. v. SRAM Corp.*, 336 F.3d 1298, 1302, 67 USPQ2d 1438, 1441 (Fed. Cir. 2003), *Brookhill-Wilk I, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298 67 USPQ2d 1132, 1136 (Fed. Cir. 2003). The interpretation of the claims by their broadest reasonable interpretation reduces the possibility that, once the claims are issued, the claims are interpreted more broadly than justified. See *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). Also, limitations appearing in the specification but not recited in the claim are not read into the claim.

See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore, the failure to significantly narrow definition or scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims in parallel to the Applicant in the response and reiterates the need for the Applicant to distinctly define the claimed invention.

Since no substantial amendments have been made and the Applicant's arguments are not persuasive, the claims are drawn to the same invention and the text of the prior art rejection can be found in the previous Office Action. Therefore, the Examiner maintains that the references cited and applied in the last office actions for the rejection of the claims are maintained in this office action.

#### ***Claim Rejections - 35 USC ' 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was

made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1-4, 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fangman et al. (US#7,068,646) in view of White et al. (US#6,711,241).

With respect to claims 14-16, the references disclose method and system for routing voice calls over VoIP networks, according to the essential features of the claims. Fangman et al. (US#7,068,647) discloses in Fig. 3B a block diagram illustrated an IP telephony network, in which the Media Gateway Controller is operable to couple to the first Media Gateway and the second Media Gateway through the network. In one embodiment, the Media Gateway Controller may receive a Call Setup request, where the Call Setup request may include a source IP address and a destination telephone number. The Media Gateway Controller may select a first Media Gateway based on the source IP address, and a second Media Gateway based on the destination telephone number. The Media Gateway Controller may compare a public IP address of the first Media Gateway to a public IP address of the second Media Gateway, and if the public IP address of the first Media Gateway is the same as the public IP address of the second Media Gateway, may select a private IP address of the first Media Gateway and a private IP address of the second Media Gateway for Call Setup. Note that if the public IP addresses of the Media Gateways are the same, then they are internal to the system. If the public IP address of the first Media Gateway is not the same as the public IP address of the second Media Gateway, the Media Gateway Controller may select the public IP address of the first Media Gateway and the public IP address of the second Media Gateway for Call Setup. This describes a case when a call session is

between an internal IP telephone (e.g., the first Media Gateway), and an external device, such as a telephone, communicating through a Trunking Gateway (e.g., the second Media Gateway). Thus, in one embodiment, the first Media Gateway and the second Media Gateway may each include one of an IP telephone or a Trunking Gateway, where the Trunking Gateway includes an interface to the Public Switched Telephone Network (PSTN) (Col. 3, lines 33 plus and Col. 4, lines 51 plus).

However, Fangman does not expressly disclose the step wherein the header data is configured to ensure that if a call setup attempt fails, the data packets containing the call setup request will be returned to a source gateway. In the same field of endeavor, White et al. (US#6,711,241) teaches in Fig. 5 a flow diagram illustrated one mode of operation of the system, in which at step 150, the LEC 114 determines whether the local loop 123 and telephone 116 corresponding to that number are busy. If the line is busy a busy signal is returned to the gateway router 116 at 152. At 154 the gateway router receives that information, assembles an appropriate TCP/IP packet and dispatches the packet through the Internet addressed to the origination or source gateway router 104. At 156 the gateway router 104 disassembles that packet and sends an appropriate signal to the calling end office 105 and calling telephone 100 (Col. 9, lines 49 plus).

Regarding claims 1-4, 10-13, they are method claims corresponding to the system claims above. Therefore, claims 1-5, 10-13 are analyzed and rejected as previously discussed with respect to the claims above.

One skilled in the art would have recognized the need for efficiently routing IP packets in VoIP utilizing service gateway, and would have applied White's teaching of telephone service via the Internet to users of the public telecommunications network into Fangman's novel use of a



system and method for IP telephony including internal and external call sessions. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to apply White's internet telephone service into Fangman's system and method for performing IP telephony including internal and external call sessions with the motivation being to provide a method and system for routing voice calls over the diverse networks.

9. Claims 6-9 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fangman et al. (US#7,068,646) in view of White et al. (US#6,711,241) as applied to the claims above and further in view of Sasagawa et al. (US#6,914,898).

Regarding claims 17-18, Fangman et al. (US#7,068,646) and White et al. (US#6,711,241) disclose the claimed limitations discussed in paragraph 8 above. However, these claims differ from the claims above in that the claims requires wherein the source gateway is configured to insert header data packets containing the call setup request such that the header data identifies the source gateway, and the interim gateway. In the same field of endeavor, Sasagawa et al. (US#6,914,898) provides an IP communication network system, incorporating a gateway function for executing a communication protocol conversion between a telephone network (switched circuit network) and the Internet (IP packet switched network), for actualizing a variety of communications such as voice communications and data communications between the telephone network and the Internet. Sasagawa teaches an IP communication network, includes the third processing unit, when the packet-assembled media-corresponding data generated by the second processing unit are the voice data or the facsimile data, may add a UDP header and an IP header as the header data, and, when the packet-assembled media-corresponding data are the

essential data, may add a TCP header and an IP header as the header data. The third processing unit, when the second media-corresponding data are the voice data or the facsimile data, may remove the UDP header and the IP header added as the header data, and, when the second media-corresponding data are the essential data, may remove the TCP header and the IP header added as the header data (See Fig. 1; Col. 3, lines 6 plus).

It's also noted that, in VoIP communications, a header removal function is able to remove a header of data packets, which are received via the IP network before they are forwarded to the first terminal. A header removal function can be provided for instance in case the first terminal is adapted to process only the payload of a data packet. Receiving Internet access server determines from the destination address included in the header of the data packet that the destination address is telephone, removes the header from the data packet and forwards the audio stored in the payload to telephone device.

Regarding claims 6-9, they are method claims corresponding to the apparatus claims above. Therefore, claims 6-9 are analyzed and rejected as previously discussed with respect to the claims above.

One skilled in the art would have recognized the need for efficiently routing IP packets in VoIP utilizing service gateway, and would have applied Sasagawa's novel use of the IP communication interface device, and White's teaching of telephone service via the Internet to users of the public telecommunications network into Fangman's system and method for IP telephony including internal and external call sessions. Therefore, It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to apply Sasagawa's IP communication network system having a gateway function with communication protocol

conversion between a switched circuit network and a packet switched network including data over TCP/IP and voice/fax over RTP, and White's internet telephone service into Fangman's system and method for performing IP telephony including internal and external call sessions with the motivation being to provide a method and system for routing voice calls over the diverse networks.

***Allowable Subject Matter***

10. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. The following is an examiner's statement of reasons for the indication of allowable subject matter: The closest prior art of record fails to disclose or suggest wherein if the second call setup attempt fails, the method further comprises: identifying a third-most optimal route; inserting new header data into the data packets containing the call setup request, wherein the new header data identifies the originating gateway connected with the third-most optimal route; sending the data packets containing the call setup request to the originating gateway connected with the third-most optimal route; stripping off the header data identifying the originating gateway connected with the third-most optimal route from the data packets containing the call setup request; and making a third call setup attempt by sending the data packets containing the call setup request from the originating gateway connected with the thirteenth-most optimal route to the destination gateway, wherein if the third call setup attempt fails, the data packets containing the call setup request will be returned to the source gateway, as specifically recited in claims.

12. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION THIS ACTION IS MADE FINAL**. See MPEP ' 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Phan whose telephone number is (571) 272-3149. The examiner can normally be reached on Mon - Fri from 6:00 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, jay patel, can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at toll free 1-866-217-9197.

Mphan

Mar. 11, 2008

/Man Phan/  
Primary Examiner, Art Unit 2619

**Application Number****Application/Control No.**

10/646,687

**Applicant(s)/Patent under  
Reexamination**

JOSEPH ET AL.

**Examiner**

Man Phan

**Art Unit**

2619